

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HERBERT L. CAMPBELL,)	CASE NO. 4:08CV3092
)	
Petitioner,)	
)	
v.)	MEMORANDUM
)	AND ORDER
BOB HOUSTON, Director, and)	
UNKNOWN BAKEWELL, Warden,)	
)	
Respondents.)	

This matter is before the court on Petitioner's Motions to Dismiss. ([Filing Nos. 19](#) and [20](#).) Where a habeas corpus petition is successive, the court cannot proceed absent authorization from the Eighth Circuit. [28 U.S.C. § 2244\(b\)\(3\)\(A\)](#). Petitioner agrees with Respondent that his Petition is successive. ([Filing No. 20](#).) Therefore, Petitioner seeks the dismissal of his successive Petition so that he can seek authorization from the Eighth Circuit Court of Appeals to proceed. (*Id.*)

The court will permit Petitioner to file the appropriate motion with the Eighth Circuit to receive authorization to proceed. However, rather than dismiss this case, the court will stay this case pending the Eighth Circuit's authorization. However, if Petitioner has not sought such authorization within 30 days, this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motions to Dismiss ([Filing Nos. 19](#) and [20](#)) are granted in part and denied in part. This case is stayed in accordance with 28 U.S.C. § 2244(b)(3)(A);
2. Petitioner shall have until September 15, 2008, to seek authorization from Eighth Circuit Court of Appeals to proceed with his successive Petition. In the event that Petitioner fails to seek such authorization by September 15, 2008, this matter will be dismissed without further notice;

3. The Clerk of the court is directed to set a pro se case management deadline in this case with the following text: September 15, 2008: deadline for Petitioner to seek Eighth Circuit authorization; and
4. All other pending motions are denied as moot. However, the motions are denied without prejudice to reassertion.

DATED this 18th day of August, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge